THE ONTARIO MUNICIPAL BOARD

77th ANNUAL REPORT

january 1, 1982 to december 31, 1982

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January 1, 1982 to December 31, 1982

June 13, 1983

The Honourable R. Roy McMurtry
Attorney General
Ministry of the Attorney General
18 King Street East
18th floor
Toronto, Ontario
M5C 1C5

Dear Mr. Attorney:

We are pleased to submit to you, as required by Section 100 of the Ontario Municipal Board Act, the Annual Report of the Board for the 1982 calendar year.

H. E. Stewart
Chairman

D. G. Henderson
Secretary and Chief
Administrative Officer

MEMBERS

The following is a list of the Members of the Board during 1982:

		Date of Appointment
H. E. STEWART	Chairman	April 1, 1974 Chairman - Sept. 1, 1979
A. H. ARRELL, Q. C.	Vice-Chairman	June 30, 1961 Vice-Chairman - June 30, 1961
A. L. McCRAE	Vice-Chairman	December 1, 1958 Vice-Chairman - Oct. 1, 1974
W. T. SHRIVES	Vice-Chairman	October 18, 1965 Vice-Chairman - June 1, 1977
W. H. J. THOMPSON, Q. C.	Vice-Chairman	July 1, 1966 Vice-Chairman - June 1, 1977
D. S. COLBOURNE	Vice-Chairman	September 3, 1968 Vice-Chairman - June 1, 1977
D. D. DIPLOCK, Q. C.	Vice-Chairman	July 1, 1977 Vice-Chairman - July 1, 1977
P. M. BROOKS	Vice-Chairman	November 1, 1973 Vice-Chairman - Nov. 13, 1980
H. H. LANCASTER	Vice-Chairman	September 7, 1970 Vice-Chairman - June 30, 1981
D. H. McROBB	Vice-Chairman	January 3, 1978 Vice-Chairman - Oct. 22, 1982
A. B. BALL	Member	January 1, 1974
C. G. EBERS, Q. C.	Member	August 12, 1974
H. W. KELLY, Q.C.	Member	September 3, 1974
J. A. WHELER	Member	September 3, 1974
E. A. SEABORN	Member	September 9, 1974
A. J. L. CHAPMAN, Q. C.	Member	September 10, 1974
C. G. CHARRON, Q. C.	Member	February 1, 1975

		Date of Appointment
K. D. BINDHARDT	Member	January 2, 1976
P. G. WILKES	Member	January 16, 1978
J. E. HENDY	Member	January 30, 1978
V. M. SINGER, Q. C.	Member	September 1, 1978
M. D. HENDERSON	Member	September 1, 1978
D. L. SANTO	Member	March 10, 1980
D. M. ROGERS, Q. C.	Member	March 10, 1980
T. F. BAINES, Q. C.	Member	March 17, 1980
J. WORRALL, Q. C.	Member	October 8, 1981
S. R. COLE	Member	October 8, 1981
G. CAMPBELL, Q. C.	Member	October 8, 1981
G. T. DOBBS	Member	October 8, 1981
G. M. HOBART	Member	October 8, 1981
D. W. MIDDLETON	Member	October 8, 1981
J. R. MILLS	Member	May 10, 1982
P. H. HOWDEN, Q. C.	Member	July 19, 1982
E. F. CROSSLAND	Member	November 1, 1982
G. A. HARRON	Member	December 1, 1982

ADMINISTRATION

The offices of the Board are located at 180 Dundas Street West, Toronto, M5G 1E5. (Telephone: 416/598-2266).

K. C. Andrews	Secretary and Chief Administrative Officer (Retired May 28, 1982)
D. G. Henderson	Secretary and Chief Administrative Officer
B. C. Alty	Administrative Officer
E. R. Elliston	Supervisor of Hearings and Schedules (Retired May 28, 1982)
D. M. Stewart	Supervisor of Hearings and Schedules
M. S. Manji	Supervisor of Capital Expenditures
C. Saruyama	Supervisor of Planning Administration

THE ONTARIO MUNICIPAL BOARD

A. HISTORY:

The legislative roots of the Ontario Municipal Board can be traced back to 1897 when the Office of the Provincial Municipal Auditor was created to establish rules for the proper keeping of accounts by municipalities. The Ontario Railway and Municipal Board Act in 1906 created a Board of the same name. Later, in 1917, the Bureau of Municipal Affairs Act was passed and the Bureau, which was created, supervised the accounts of schools and public utilities and issued bulletins to guide municipalities in administration.

The Ontario Municipal Board Act, enacted in 1932, created this Board. This Act repealed the Ontario Railway and Municipal Board Act and the Bureau of Municipal Affairs Act and incorporated many of the provisions and powers of these Acts on the Board. Most of the powers bestowed upon it in 1932 have been retained by the Board to this date.

Appointed by the Provincial Government, the Board is an independent administrative tribunal, and as such is not an agency, commission or department of the government.

The Board's function as a tribunal is generally limited to dealing with applications or appeals made under the provisions of various statutes. Much of its jurisdiction and authority flows from The Ontario Municipal Board Act, the Municipal Act, the Planning Act, the Assessment Act, as well as numerous other statutes.

For administrative purposes the Board reports to the Ministry of the Attorney General.

B. COMPOSITION:

As of December 31, 1982, there were 35 members of the Board including the Chairman and Vice-Chairmen. Members are appointed by the Lieutenant Governor in Council and serve on a full-time basis and are based at the Board's offices in Toronto.

As of December 31, 1982, the Board had a staff complement of 72 civil servants. The staff of the Board provide administrative and clerical services in connection with the processing of applications and appeals, the arrangement of hearings, and the preparation of Board orders and decisions.

C. HEARINGS:

When the Board holds a hearing, it is governed by any applicable statute, but it is also subject to the rules of natural justice.

The administration of justice could be said to be divided between the judicial arm of government (the courts) and the executive arm of which this Board is a branch. The courts operate under strict rules and interpret and follow statutes and precedents. Administrative boards, such as this Board, administer what is sometimes called 'discretionary justice' having a minimum of rules and a wide spectrum of discretion.

In matters of law and jurisdiction there is provision for appeal from decisions of the Board to the courts. In many of the matters dealt with by the Board there is a provision for appeal from the Board's decision to Cabinet by way of a petition to the Lieutenant Governor in Council.

Although two members constitute a quorum for Ontario Municipal Board hearings, more than two members can be assigned to a hearing as long as the number of members is uneven. The Chairman has authority however to

appoint only one member to hear and decide on any application. This has been used with greater frequency in recent years because of the Board's workload.

It is the practice of the Board to conduct hearings in the municipality from which the application originated and generally the only hearings held by the Board in their offices in Toronto involve the Metropolitan Toronto area. As a result of this practice, a considerable amount of travel is incurred by the members attending hearings in all areas of the province. Hearings not within reasonable commuting distance from Toronto are arranged on a weekly trip basis and do not involve daily travel from Toronto.

1982

THE YEAR IN REVIEW

The number of matters received by the Ontario Municipal Board in 1982 was marginally less (4%) than the previous year.

There was a 12% reduction in the number of restricted area by-laws received, which can be attributed partly to economic conditions in the province and partly to the use by municipalities of Section 39(26) of the Planning Act which allows for by-laws to come into effect without the approval of the Ontario Municipal Board. Of the restricted area by-laws which were received by the Board, 66% had no objections and were approved in chambers without the need for a hearing. With the proclamation of Bill 159, An Act to Revise the Planning Act, in 1983, such by-laws with no objections and appeals will not require the approval of the Board. This will be of value to the Board in that the other matters brought to the Board can be processed and dealt with in a more expeditious manner than had been previously possible.

The Board received 50% more assessment appeals in 1982 than it had in 1981. The Board has taken a number of steps to recognize that increase in assessment appeals and in preparation for the January 1, 1983, proclamation of the Assessment Appeals Procedure Statute Law Amendment Act, 1982 (Bill 140). The workload of the Board will increase substantially in 1983 in assuming responsibility for the large backlog of assessment appeals pending before county and district court judges and for new appeals from the Assessment Review Board. Two of the four new members who were appointed to the Board in 1982 are assigned to the Assessment Appeals Division, with additional members to be appointed and staff to be recruited in 1983.

The Board held 1682 hearings in 1982 dealing with 2197 applications. The number of hearings is slightly greater than in the previous year. The Board has found that hearings have continued to become more complicated and complex and, as a result, are generally longer. A considerable number of hearings seem to be the subject of withdrawals and requests for adjournment at the last minute or on the day of the hearing, which results in lost hearing days for the Board. The Board needs these lost hearing days to deal with the backlog of appeals and by various means has been encouraging solicitors, agents, consultants and others to minimize last minute withdrawals or requests for adjournment.

Selected decisions of the Board may be found in the Ontario Municipal Board Reports (OMBR) published by Canada Law Book Limited under arrangement made with the Board and the Ministry of the Attorney General. Copies of individual decisions may be obtained on request from the offices of the Board.

Three members of the Ontario Municipal Board were seconded in 1980 to conduct hearings on the Niagara Escarpment Plan, and the work of those members continued in that connection throughout 1982.

There were 75 hearings under The Expropriations Act in 1982. The cross-appointment of Ontario Municipal Board and Land Compensation Board members has permitted a more efficient and flexible utilization of members required to meet the hearing demands according to the workload of each board. A full integration of the Land Compensation Board with the Ontario Municipal Board would add even greater benefits.

The Board continues to make itself available to participate in discussions and seminars throughout the province. There were discussions in

1982 on the proposed amendments to the Planning Act and on The Consolidated Hearings Act. The attendance of members and/or staff at such meetings results in a better understanding of the functions and responsibilities of the Board.

On a personal note, the Board recognizes the contribution and services of Ken Andrews, who served as Secretary and Chief Administrative Officer from 1971 to his retirement in 1982.

BOARD HEARINGS

Year	Number of Hearings		Number of Applications Dealt with at Hearings	
1982	Ontario Municipal Board	1602	Ontario Municipal Board	2079
	Land Compensation Board	75	Land Compensation Board	105
	Consolidated Hearings	5	Consolidated Hearings	13
	Total	1682	Total	2197
1981	Total	1676	Total	2308

BOARD ORDERS

Year	Number of Orders	Number of Applications Dealt with in Orders
1982	5755	6569
1981	6279	6929

CABINET PETITIONS

Year	Carried Over from Previous Year	*Received	Confirmed OMB Decision	Rescinded OMB Decision	Varied OMB Decision	Required New Hearing	Petition Not Proceeded With	Carried Over to Next Year
1982	39	113	67	9	5	16	12	43
1981	65	100	64	14	4	26	18	39

*More than one petition is sometimes filed in relation to the same OMB decision.

APPLICATIONS AND APPEALS

The following table shows the number and types of applications and appeals received in 1982 and a comparison with the number received in 1981.

	Type of Application/Appeal	1982	1981
A.	The Planning Act		
	1. Restricted Area By-laws	2002	2283
	2. (a) Consent Appeals	427	-
	(b) Minor Variance Appeals	425	-
		852	1122
	3. Official Plan Referrals	192	208
	4. Plans of Subdivision and Condominium	61	52
	5. Zoning Appeals	103	109
B.	The Municipal Act		
	1. Capital Expenditures	2195	2148
	2. Miscellaneous	59	49
C.	The Assessment Act	607	406
D.	Miscellaneous	187	204
E.	Consolidated Hearings	11	1
	TOTAL	6269	6582

FINANCIAL REPORT

REVENUE:

The Board has adopted, under Section 99 of the Ontario Municipal Board Act, a tariff of fees payable on various types of applications, appeals and orders. The fees are collected by the Board and paid to the Treasurer of Ontario.

Breakdown of Fees for 1982 Calendar Year:

Capital Expenditure	-	$318,553.65
Land Use Planning	-	$324,025.00
Municipal Structure	-	$ 70,244.00
Miscellaneous	-	$ 14,650.47
1982 Total	-	$727,473.12
1981 Total	-	$585,716.09

EXPENDITURE:

The Board's budget for the calendar year 1982 was approximately $4.2 million.

The largest single expenditure was salaries and employee benefits totalling approximately $3.2 million. Salaries for the cross-appointments of the members of the Land Compensation Board are also reflected in this figure.